

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In patent application of )

**Michael J. ELDER et al.** )Serial No. **10/578,059** ) Art Unit **1796**Filed **June 11, 2007** ) Examiner **C. C. Lu**

For **ORGANOMETALLIC TRANSITION METAL** )  
**COMPOUND, BISCYCLOPENTADIENYL** )  
**LIGAND SYSTEM, CATALYST SYSTEM** )  
**AND PROCESS FOR PREPARING** )  
**POLYOLEFINS** )

Mail Stop Amendment  
 Commissioner for Patents  
 P. O. Box 1450  
 Alexandria, VA 22313-1450

Sir:

**TRANSMITTAL LETTER**

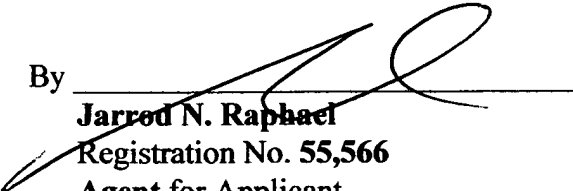
Submitted herewith for filing in the U.S. Patent and Trademark Office are the following:

- ☒ Postcard  
☒ Response to Restriction Requirement (5 pages)

Respectfully submitted,

**SHAHRAM MIHAN ET AL.**

By

  
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 Date: **February 13, 2008**



Attorney Docket No. LU 6142

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Michael J. ELDER, et al.

Serial No.: 10/578,059

Group Art Unit: 1796

Filed: June 11, 2007

Examiner: C.C. LU

For: ORGANOMETALLIC TRANSITION METAL COMPOUND, BISCYCLOPENTADIENYL  
LIGAND SYSTEM, CATALYST SYSTEM AND PROCESS FOR PREPARING  
POLYOLEFINS

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Assistant Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action dated January 14, 2008. The one month shortened statutory period for response was set to expire on February 14, 2008. Thus, this response is timely filed.

SUMMARY OF RESTRICTION/ELECTION REQUIREMENT

The Official Action states the following:

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-2, drawn to a metallocene complex.

Group II, claim(s) 3-4 and 9, drawn to a ligand compound.

Group III, claim(s) 5-6 and 11-12, drawn to a catalyst composition.

Group IV, claim(s) 7 and 13-16, drawn to a polymerization process.

Group V, claim(s) 10, drawn to an olefin polymer.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: (i) Groups I, II, III&IV together, and V do not share a common technical features, and (ii) Groups III and IV share the common technical feature of the catalyst composition, however, the catalyst composition is disclosed in prior art under 'X' category in the international search report. As the recited catalyst composition does not make a contribution over the prior art, i.e. the special technical feature(s) is anticipated by or obvious in view of the prior art, unity of invention is lacking and restriction is appropriate.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- (i) various metallocene complex species; and
- (ii) various ligand compound species.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species

which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP §809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

various species (i) are disclosed in claims 1-2; and

various species (ii) are disclosed in claims 3-4.

The following claim(s) are generic: none.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Pursuant to PCT Rule 13.2 and PCT Administrative Instructions, Annex B, Part 1(f)(1)(B)(2), the species are not art recognized equivalents.

#### **PROVISIONAL ELECTION**

Applicant provisionally elects Group III, drawn to catalyst compositions. Applicant respectfully believes claims 5, 6, 11, and 12 are readable on the elected invention.

Additionally, Applicant respectfully elects dimethylsilyl-bis(2-methyl-8-phenyl-benzo[b]cyclopenta[d]thien-3-yl) zirconium dichloride in response to the Examiner's species election requirement.

**TRAVERSAL**

Applicant respectfully traverses the Examiner's restriction requirement.

In particular, Applicant traverses the Examiner's contention that pending claims 1-16 lack a single inventive concept under PCT Rule 13.1.

In fact, claims 1-16 each comprise the currently claimed novel and inventive ligand system and/or organometallic transition metal compound, in part or in full. Accordingly, Applicant respectfully believes claims 1-16 satisfy PCT Rule 13.1 and 13.2.

Additionally, Applicant respectfully traverses the Examiner's contention that,

. . . (ii) Groups III and IV share the common technical feature of the catalyst composition, however, the catalyst composition is disclosed in prior art under 'X' category in the international search report. As the recited catalyst composition does not make a contribution over the prior art, i.e. the special technical feature(s) is anticipated by or obvious in view of the prior art, unity of invention is lacking and restriction is appropriate.

In particular, Applicant traverses the Examiner's blanket statement that the recited catalyst composition does not make a contribution over the prior art, and is anticipated by, or alternatively, rendered obvious in view of the prior art. The Examiner has not clearly articulated the basis for the conclusion that claims 5-7 and 11-16 (i.e., Groups III and IV) are anticipated

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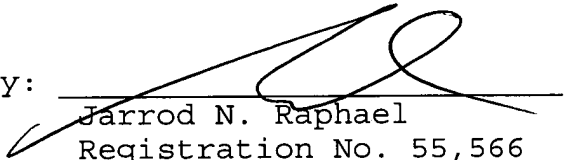
by, or alternatively rendered obvious in view "the prior art", since the pertinence of "the prior art" has not been clearly explained by the Examiner such that "the prior art" would anticipate or render obvious the aforementioned claims under 35 U.S.C. §102 or 35 U.S.C. §103. See MPEP §706, §706.02(j), and 37 C.F.R. §1.104.

In view of the foregoing, Applicant respectfully requests the Examiner to reconsider and withdraw the restriction requirement, and to examine all of the claims pending in this application.

If the Examiner has any questions or comments regarding this matter, she is welcomed to contact the undersigned practitioner at the number and address below.

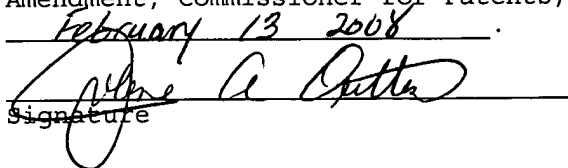
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on

February 13 2008  
  
Signature

February 13 2008  
Date